

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

JESSE BLACKSTOCK,

Plaintiff,

vs.

NEBRASKA DEPARTMENT OF  
CORRECTIONAL SERVICES,  
UNITED STATES OF AMERICA, and  
BRAD HANSEN,

Defendants.

**8:18CV555**

**MEMORANDUM  
AND ORDER**

This matter is before the court on correspondence from the Plaintiff, which the court liberally construes as a motion. ([Filing No. 22](#).) In his letter, Plaintiff states that he refused to pay the \$51.13 initial partial filing fee in this case and asked for the case to be dismissed without prejudice. As Plaintiff acknowledges in his letter, the court granted Plaintiff's request and dismissed this matter without prejudice on January 17, 2019. (*See* Filing Nos. [20](#) & [21](#).) On February 11, 2019, the court's records reflect that a payment in the amount of \$8.84 was made in this case on behalf of Plaintiff. Plaintiff now asks what he can "do to get the money N.D.C.S. is taking." ([Filing No. 22 at CM/ECF p. 1](#).)

The court cannot refund any portion of Plaintiff's filing fee in this case nor can it direct Plaintiff's institution to cease collection of the filing fee. Under the Prison Litigation Reform Act, an indigent inmate who files a lawsuit in federal court must pay the \$350.00 filing fee, first by making an initial partial payment and then by sending the remainder of the fee to the court in installments. The method for collecting the filing fee from a prisoner is specifically provided for in [28 U.S.C. § 1915\(b\)](#). Section 1915(b) is written in mandatory terms ("the prisoner shall be required to pay"), leaving no discretion to the district court to waive an in forma

pauperis prisoner's filing fee. Moreover, the Prison Litigation Reform Act makes prisoners responsible for their filing fees *the moment* the prisoner brings a civil action or files an appeal, even if the case is dismissed at a later time. See *In re Tyler*, 110 F.3d 528, 529–30 (8th Cir. 1997). Thus, even though Plaintiff did not authorize payment of the initial partial filing fee and the court granted his request for dismissal, he remains obligated to pay the court's \$350.00 filing fee, as long as he is a prisoner, and his institution remains obligated to collect and forward payments to the court in accordance with the procedure set forth in 28 U.S.C. § 1915(b)(2).

IT IS THEREFORE ORDERED that Plaintiff's letter, construed as a motion, ([filing no. 22](#)) is denied.

Dated this 14th day of March, 2019.

BY THE COURT:

*s/ Richard G. Kopf*  
Senior United States District Judge